

REMARKS

Claims 1-5, 7-9, 14-16 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Yu (US 6,506,650). Claims 6, 10-13, 17-21 and 23-24 are rejected under 35 U.S.C 103(a) as being unpatentable over Yu (US 6,506,650) in further view of Lee et al. (US 5,153,145).

1. Response to the rejection of claims 1-5, 7-9, 14-16 and 22 under 35 U.S.C. 102(e):

Claims 1, 6 and 14 are amended to distinctly distinguish the characteristics of this application. No new matter has been introduced, and the amended claims are fully supported by the specification and figures as filed.

In this application, a method of fabricating a MOS transistor is disclosed. Although the cross-sectional profile of this application is similar to that of US 6,506,650, the method of forming a L-shaped spacer is different.

In this application, for fabricating a L-shaped spacer, firstly etching the dielectric layer and the

sacrifici l layer to form an arc-shaped spac r, and
 then etching the sacrificial layer within the
 arc-shaped spacer to form a L-shaped spacer. Finally,
 etching the liner layer not covered by the L-shaped
 5 spacer.

In US 6,506,650, for fabricating a L-shaped spacer,
 the sacrificial layer is firstly etched to form an
 arc-shaped mask, and then the dielectric layer and the
 liner layer are etched simultaneously to form a
 10 L-shaped spacer. Finally, the arc-shaped sacrificial
 layer is removed. (US 6,506,650 col. 1 line 66-col.
 2 line 15, col. 3 lines 32-49)

The fabricating processes of these two inventions
 are definitely different. Features in the amended
 15 independent claims 1 and 14 are novel and never
 disclosed, so consideration of the claims 1-5, 7-9,
 14-16 and 22 is therefore politely requested.

2. Response to the rejection of claims 6, 10-13, 17-21
 20 and 23-24 under 35 U.S.C. 103(a):


According to the statement of the MPEP Sec. 2143.03,
 which is repeated as follows:

"If an independent claim is non-obvious under 35

U.S.C. 103, then any claim depending therefrom is non-obvious." (In re Fine, 837 F.2d 1071, 5 USPQ2d (CCPA 1988))

Claims 6 and 10-13 are dependent on amended claim 1 and should be allowed if the amended claim 1 is allowed. Claims 17-21 and 23-24 are dependent on amended claim 14 and should be allowed if the amended claim 14 is allowed. Reconsideration of the rejection of claims 6, 10-13, 17-21 and 23-24 is therefore politely requested.

Sincerely yours,


Winston Hsu, Patent Agent No. 41,526
P.O. BOX 506
Merrifield, VA 22116
U.S.A.
e-mail: winstonhsu@naipo.com.tw

Date: 9/17/2003

RECEIVED
CENTRAL FAX CENTER

SEP 17 2003

OFFICIAL